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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,188	11/16/2004	Kazuyuki Sacki	096867/0201851-US0	6827
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DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER RADA, ALEX P	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 11/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/510,188

Applicant(s)

SAEKI, KAZUYUKI

Examiner

Alex P. Rada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/11/07, 11-5-04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to the preliminary amendment filed September 30, 2004 wherein applicant amends claims 1-6 and claims 1-6 are pending in this application.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamaguchi (JP 2003-1646676).

Regarding claim 1, Yamaguchi discloses a remote control toy system, comprising: a transmitter which transmits a control signal according to a user's operation (drawing 2; wherein a transmitter is shown); and a driving device which is remotely controlled based on the control signal transmitted from the transmitter (drawing 1; wherein the driving device is a tank shown), wherein the driving device includes: a storage device which holds a first parameter and a second parameter

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(drawing 5 and paragraph [0007]; wherein items 40, 70a and 73 are the devices within the tank); an offense signal transmitting device which transmits an offense signal including offense information based on the first parameter (paragraph [0007]; wherein the an attack signal is the offense signal based on the first parameter); and a second parameter change device which receives a specified signal for changing the second parameter and changes the second parameter according to information included in the specified signal (paragraph [0007]; wherein the received attack signal from an opponent is the second parameter), the transmitter and the driving device are combined with another pair of another driving device and another transmitter having the storage device (drawings 1-5 and paragraph [0007]), the offense signal transmitting device, and the second parameter change device, to play a battle game (paragraphs [0007-0009]), in the battle game, the driving device receives the offense signal as the specified signal transmitted from the other driving device and changes the second parameter according to the information in the specified signal, the transmitter has a control signal generating device which allows the control signal to include specified information according to a specified operation by a user, the driving device has a first parameter change device which changes the first parameter of the driving device based on the specified information included in the control signal (paragraphs [0007-0023]).

Regarding claim 2, Yamaguchi discloses wherein the first parameter and the second parameter are expressed by numerical values, and the offense signal transmitting device transmits the offense signal including the first parameter, in the battle game, the second parameter change device changes the second parameter according to the first parameter included in the offense signal received as the specified signal, the first parameter change device changes the first parameter of the driving device based on the specified information (drawing 2 and paragraphs [0016-0023; 000025]).

Regarding claim 3, Yamaguchi discloses wherein the second parameter change device reduces the first parameter included in the offense signal from the second parameter to change the second parameter, the first parameter change device increases the own first parameter of the driving device based on the specified information (paragraphs [0016-0023]).

Regarding claim 4, Yamaguchi discloses wherein the first parameter change device returns the first parameter changed based on the specified information to a state before the change, according to a predetermined condition (paragraphs [0007-0023]).

Regarding claim 5, Yamaguchi discloses a driving device comprising: a storage device which holds a first parameter and a second parameter (drawings 1-5 and paragraphs [0007]); an offense signal transmitting device which transmits an offense signal including offense information based on the first parameter (paragraph [0007]; wherein the an attack signal is the offense signal based on the first parameter); and a second parameter change device which receives a specified signal for changing the second parameter and changes the second parameter according to information included in the specified signal (paragraph [0007]; wherein the received attack signal from an opponent is the second parameter), wherein the driving device can play a battle game with another driving device which is controlled by another transmitter (paragraphs [0007-0009]), the another driving device having the storage device (drawings 4 and 5), the offense signal transmitting device, and the second parameter change device, in the battle game, the driving device in a remote control toy system receives the offense signal transmitted from the another driving device as the specified signal, and changes the second parameter according to the information included in the specified signal, the driving device further comprises a first parameter change device which when the control signal including specified information according to a specified operation by a user is received from

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the transmitter, changes the first parameter of the driving device based on the specified information (paragraphs [0007-0023]).

Regarding claim 6, Yamaguchi discloses a remote control toy system, comprising: a transmitter which transmits a control signal according to a user's operation (drawing 2; wherein a transmitter is shown); and a driving device which is remotely controlled based on the control signal transmitted from the transmitter (drawing 1; wherein the tank is the driving device shown), wherein the driving device includes: a storage device which holds a first parameter and a second parameter (drawing 5); an offense signal transmitting device which transmits an offense signal including offense information based on the first parameter (paragraph [0007]; wherein the an attack signal is the offense signal based on the first parameter); and a second parameter change device which receives a specified signal for changing the second parameter and changes the second parameter according to information included in the specified signal (paragraph [0007]; wherein the received attack signal from an opponent is the second parameter), the transmitter and the driving device are combined with another pair of another driving device and another transmitter having the storage device, the offense signal transmitting device, and the second parameter change device, to play a battle game, in the battle game, the driving device receives the offense signal transmitted from the another driving device and changes the second parameter according to the information in the specified signal, the transmitter has a control signal generating device which allows the control signal to include specified information according to a specified operation by a user, the driving device has a relationship change device which changes a relationship between the second parameter of the driving device and the information included in the specified signal received from the another driving device based on the specified information included in the control signal (paragraphs [0007-0023]).

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3. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Jimenez et al. (US 6,609,945).

Regarding claims 1, 5 and 6, Jimenez et al (Jimenez) discloses a remote control toy system, comprising: a transmitter which transmits a control signal according to a user's operation (figures 2A-2B; wherein a transmitter is shown); and a driving device which is remotely controlled based on the control signal transmitted from the transmitter (figure 1; wherein the a driving device is shown), wherein the driving device includes: a storage device which holds a first parameter and a second parameter (figure 3); an offense signal transmitting device which transmits an offense signal including offense information based on the first parameter (figures 2-3 and summary; wherein the offense signal is the weapon command selected); and a second parameter change device which receives a specified signal for changing the second parameter and changes the second parameter according to information included in the specified signal (figures 2-3 and summary; wherein the received offense signal from an opponent to inform of an damage caused by the offense signal), the transmitter and the driving device are combined with another pair of another driving device and another transmitter having the storage device, the offense signal transmitting device (figures 1-3 and summary), and the second parameter change device, so as to be capable of playing a battle game (summary), in the battle game, the driving device receives the offense signal transmitted from the another driving device and changes the second parameter according to the information in the specified signal, the transmitter has a control signal generating device which allows the control signal to include specified information according to a specified operation by a user, the driving device has a relationship change device which changes a relationship between the second parameter of the driving device and the information included in the specified signal received from the another driving

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device based on the specified information included in the control signal (summary and col. 5, line 51 – col. 6, line 53).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 571-272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Robert E. Pezzuto
Supervisory Patent Examiner
Art Unit 3714


APR